

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

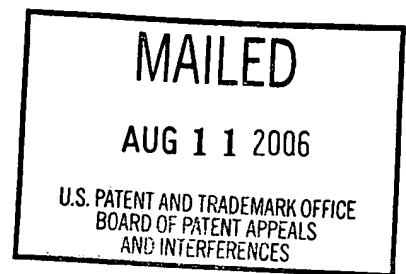
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RAJA CHATTERJEE and SUZAN MARVIS

Appeal No. 2006-1765
Application No. 09/496,086

ON BRIEF



Before BARRY, BLANKENSHIP, and SAADAT, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-17, which are all the claims in the application.

We reverse.

BACKGROUND

The invention relates to a system for automatically enhancing Web pages with annotations expressed in Extensible Markup Language (XML) that describe the pages' multimedia content, thus enhancing text-based indexing and searching. (Abstract.)

Representative claim 10 is reproduced below.

10. The method of automatically enhancing the content of a Web page which contains multimedia data incorporated by reference which comprises, in combination, the steps of:

identifying one or more markup tags in said Web page which respectively identify one or more external resources which provide said multimedia data;

generating metadata which describes said multimedia data,

translating said metadata into a character-based text annotation, and

inserting said annotation into said Web page to form an enhanced Web page suitable for processing by a character-based text processing system.

The examiner relies on the following references:

Nelson et al. (Nelson)	US 6,243,713 B1	Jun. 5, 2001 (filed Aug. 24, 1998)
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Mohan et al. (Mohan)	US 6,748,382 B1	Jun. 8, 2004 (filed Dec. 1, 1999)
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Claims 1, 2, 4-8, and 10-17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nelson.

Claims 3 and 9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nelson and Mohan.

We refer to the Final Rejection (mailed Apr. 26, 2005) and the Examiner's Answer (mailed Dec. 7, 2005) for a statement of the examiner's position and to the Brief (filed Sep. 24, 2005) and the Reply Brief (filed Feb. 6, 2006) for appellants' position with respect to the claims which stand rejected.

OPINION

Nelson describes a system and method for characterizing multimedia components in a multimedia document as one or more "tokens." The tokens are placed in a multimedia index (e.g., Fig. 1, element 140). A user may search the index (Fig. 1), with the results presented to the user so that the multimedia documents may be retrieved and browsed. Col. 5, l. 10 - col. 7, l. 67.

The rejection applied against claim 10 admits that Nelson does not teach inserting the annotation into the Web page to form an enhanced Web page suitable for processing by a character-based text processing system as required by the claim. The rejection contends, however, that it would have been obvious for the artisan "to have modified Nelson to have created the claimed invention."

It would have been obvious and desirable to have modified Nelson to have inserted the token representations of image, video, audio, and other multimedia components into the text of the multimedia document so that the text did not have to be processed, thus allowing the extraction software design to be simpler.

(Answer at 9.)

We agree with appellants, for the reasons expressed in the briefs, that the positions set out in the Final Rejection and Answer fail to set forth a case for prima facie obviousness of the subject matter as a whole of instant claim 10.

Nelson describes a multimedia index structure (e.g., Fig. 9) whereby a token is associated with documents that contain the token, and the position of the represented content within the documents. However, the rejection does not identify any suggestion from the prior art to modify Nelson's system so as to meet the terms of instant claim 10. The rejection is based on the allegation that the artisan would have found it obvious to modify Nelson by inserting the token representations of image, video, audio, and other multimedia components into the text of the (original) multimedia document "so that the text did not have to be processed." The reference to text processing appears to relate to the text pre-processing, which produces text tokens representative of the text in a multimedia document, described at column 10, line 38 through column 11, line 31 (Fig. 7a) of Nelson. While skipping the text (pre-) processing would undoubtedly make the document data extraction (indexing) process simpler, the document retrieval process would be made, correspondingly, more complex.

Even if there were a suggestion to forgo text pre-processing, the further requirement of a suggestion for inserting the non-text tokens, representing multimedia components, into the multimedia document itself could only arise from an improper hindsight reconstruction of the instant invention, in our estimation.

As appellants indicate, Nelson was faced with the same problem as appellants but taught a different solution. There is insufficient evidence in this record to demonstrate there was some teaching, suggestion, or motivation from the prior art to modify the teachings of Nelson so as to meet the limitations of instant claim 10. Cf. In re Zurko, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001) (in a determination of unpatentability “the Board must point to some concrete evidence in the record in support of [the] findings.”).

Claims 1 and 8, the other independent claims on appeal, contain limitations similar to those of claim 10 that we have discussed. Because Mohan, applied in combination with Nelson against dependent claims 3 and 9, does not remedy the deficiencies with respect to Nelson, we do not sustain the rejection of any claim on appeal.

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CONCLUSION

The rejection of claims 1-17 under 35 U.S.C. § 103 is reversed.

REVERSED

~~LANCE LEONARD BARRY~~
~~Administrative Patent Judge~~

HOWARD B. BLANKENSHIP
Administrative Patent Judge


MAHSHID D. SAADAT
Administrative Patent Judge

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